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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, )

Plaintiff )

V. )

SAMUEL A. ASHLEY JR. )

Defendant. )

Criminal No. 1-02-CR-022

Case No. ~~1-04-CV-689~~

Chief U.S. District Judge Beckwith

MOTION FOR DISCOVERY UNDER RULE 6 (a)  
OF §2255 PROCEEDINGS

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Now comes the defendant, Samuel Ashley Jr., filing this motion pro-se, does hereby request that this Honorable Court grant discovery pursuant to Rule 6 (a) of the rules that govern §2255 proceedings.

In *United States V. Bontkowski*, 262 F.2d 915 (N.D. IL. 2003), that court held that:

Good cause for discovery in a post conviction relief proceeding will be found where specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is entitled to relief.

The decision to grant discovery to a post conviction relief movant is left to the sound discretion of the district court, but a blanket denial is an abuse of discretion, if the discovery is indispensable to a fair, rounded, development of facts.

It has been proven by the defendant that the allegations he made

(2)

concerning the plea agreement he was offered, that counsel never filed for discovery, should warrant this Court to grant full discovery in this initial \$2255 application for relief. If the Court grants this motion for discovery, it would serve a two-fold purpose:

- 1) It would prove all of the claims made by the defendant in his initial \$2255 application.
- 2) It would allow the Court to review not only the defendant's allegations, but also to review the facts relevant to the making of a decision to determine if the evidence produced would indeed warrant an evidentiary hearing.

See **Wagner V. United States**, 418 F.2d 618 (9th Cir. 1969)

Rule that mere conclusory statements in motion attacking sentence are not enough to require hearing does not mean that moving party must detail his evidence, but only that he must make factual allegations.

#### CONCLUSION

The defendant has made specific allegations that he has already proved beyond any reasonable doubt. There are other very specific allegations that can be proven if discovery is ordered. The defendant respectfully requests that this motion for discovery be granted in order that all the facts can be fully developed, so that this Court can make a determination of whether an evidentiary hearing is required in this case.

RESPECTFULLY SUBMITTED

*Sam Ashley*

I do certify that a copy of this motion has been sent to Asst. US Attorney James McCombe at 221 East Fourth St Suite 400 on this 17th day of November, 2004

*Sam Ashley*